

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA,	:	Case No. 2:18-cv-556
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
SEVEN THOUSAND ONE HUNDRED AND 00/100 DOLLARS (\$7,100.00) IN UNITED STATES CURRENCY,	:	<u>VERIFIED COMPLAINT FOR FORFEITURE IN REM</u>
	:	
Defendant 1,	:	
	:	
FIVE THOUSAND TWENTY AND 00/100 DOLLARS (\$5,020.00) IN UNITED STATES CURRENCY,	:	
	:	
Defendant 2.	:	
	:	

Plaintiff, United States of America, by its undersigned counsel, alleges the following for its action against the defendants in accordance with Supplemental Rule G(2) of the Federal Rules of Civil Procedure.

NATURE OF THE ACTION

1. This is a civil action *in rem* brought to enforce 21 U.S.C. § 881(a)(6), which provides for the forfeiture to the United States of:

All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance or listed chemical in violation of this subchapter, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this subchapter.

THE DEFENDANTS IN REM

2. Defendant 1 is Seven Thousand One Hundred and 00/100 Dollars (\$7,100.00) in

United States Currency. The Drug Enforcement Administration (“DEA”) seized Defendant 1 on or about January 15, 2018, from Cornelius Yarbrough during a consensual encounter at the John Glenn Columbus International Airport. Defendant 1 has been deposited into the Seized Asset Deposit Fund, where it will remain during the pendency of this action.

3. Defendant 2 is Five Thousand Twenty and 00/100 Dollars (\$5,020.00) in United States Currency. The DEA seized Defendant 2 on or about January 15, 2018, from Alisha Sparks during a consensual encounter at the John Glenn Columbus International Airport. Defendant 2 has been deposited into the Seized Asset Deposit Fund, where it will remain during the pendency of this action.

JURISDICTION AND VENUE

4. Plaintiff brings this action *in rem* in its own right to forfeit and condemn the defendants under 21 U.S.C. § 881(a)(6). This Court has subject matter jurisdiction over an action commenced by the United States under 28 U.S.C. § 1345 and over an action for forfeiture under 28 U.S.C. § 1355(a).

5. This Court has *in rem* jurisdiction over the defendants under 28 U.S.C. § 1355(b)(1)(A) because acts and omissions giving rise to the forfeiture occurred in the Southern District of Ohio.

6. Venue is proper in this district under 28 U.S.C. § 1355(b)(1)(A) because acts and omissions giving rise to the forfeiture occurred in the Southern District of Ohio and under 28 U.S.C. § 1395 because the defendants were seized in the Southern District of Ohio.

BASIS FOR FORFEITURE

7. The defendants are subject to forfeiture under 21 U.S.C. § 881(a)(6) because they represent property furnished or intended to be furnished by any person in exchange for a controlled

substance, represent proceeds traceable to such an exchange, or were used or intended to be used to facilitate any violation of 21 U.S.C. § 841 or a conspiracy to commit such offense, in violation of 21 U.S.C. § 846.

FACTS

8. On Monday, January 15, 2018, DEA Task Force Officers Andrew D’Orazio (“TFO D’Orazio”) and Eric Doyle (“TFO Doyle”) received information regarding the suspicious travel of two passengers, Cornelius Yarbrough (“Yarbrough”) and Alisha Sparks (“Sparks”). The officers learned that Yarbrough and Sparks had purchased one-way tickets on American Airlines, within 24 hours of their travel that day, from Columbus, Ohio, to Los Angeles, California.

9. Based on their training and experience, the officers know that narcotics or money couriers often purchase airline tickets within 72 hours of travel to a known source area for illegal narcotics like Los Angeles, California, or to a known destination area for illegal narcotics like Columbus, Ohio.

10. At approximately 5:00 p.m., the officers went to the American Airlines ticketing area of the John Glenn Columbus International Airport to locate Yarbrough and Sparks. TFO D’Orazio observed Yarbrough and Sparks checking in for their flight approximately 30 minutes prior to boarding.

11. The officers observed Yarbrough and Sparks proceed to the airport’s Transportation Security Administration (“TSA”) screening area. After they cleared TSA screening, TFO Doyle approached Sparks in a way as to not block her egress. TFO Doyle identified himself as a law enforcement officer, displayed his credentials, advised Sparks that she was not in trouble and was free to leave, and asked if she would speak to him. Sparks agreed to stop and speak with TFO Doyle.

12. TFO Doyle advised Sparks that he was speaking to her because of her recent ticket purchase. He asked Sparks if she was traveling with any narcotics, weapons, or large amounts of currency. Sparks stated that she had about \$4,000.00 in cash in her purse and permitted TFO Doyle to inspect the money. TFO Doyle observed that the cash consisted mostly of \$20.00 bills and that it was separated into several stacks with rubber bands. When asked about her ticket purchase, Sparks stated that she bought the ticket “yesterday” through a travel agency service and that she would be returning to Columbus on Wednesday night or Thursday morning.

13. As they continued to speak, Sparks stated that the reason for her travel was to “kick it with her boyfriend” and that the cash was for shopping and going to a Lakers game at the Staples Center. Sparks advised that she had gotten the money from the bank on the previous day, Sunday, January 14.

14. A subsequent review of the schedule for the Los Angeles Lakers indicated that the Lakers were not playing at the Staples Center between Monday, January 15 and Thursday, January 18.

15. While TFO Doyle spoke with Sparks, TFO D’Orazio approached Yarbrough in a way as to not block his egress. TFO D’Orazio identified himself as a law enforcement officer, displayed his credentials, and advised Yarbrough that he was not in trouble and was free to leave. Yarbrough agreed to stop and speak with TFO D’Orazio.

16. TFO D’Orazio advised Yarbrough that he was speaking to him because of his recent ticket purchase. He asked Yarbrough if he was traveling with any narcotics, weapons, or large amounts of currency. Yarbrough stated that he had \$6,000.00 in cash in his duffle bag and gave TFO D’Orazio consent to search his bag. Upon searching, TFO D’Orazio located a bundle of currency in the outside pocket of the duffle bag. The cash appeared to consist mostly of \$100.00

bills and was divided into two unequal stacks.

17. As they continued speaking, Yarbrough stated that the money was for shopping, which was the main purpose for his travel. Yarbrough was unable to say what he was shopping for but said that he was traveling across the country to shop because there were no nice shops in Columbus.

18. Yarbrough advised that he worked as a tow truck driver for Oscar's Towing. A records search revealed that there is an Oscar's Towing located in Massillon, Ohio, which is approximately two hours from the home address provided by Yarbrough.

19. Based on their training and experience, and their conversations with Yarbrough and Sparks, the officers advised Yarbrough and Sparks that they believed that the money they were carrying was related to illegal narcotics and would be seized by the DEA. The officers asked Yarbrough and Sparks if they would like to come to the DEA's airport office to talk more about the money and their travels. Yarbrough and Sparks both declined and advised that they would like to continue their travels. The officers gave Yarbrough and Sparks receipts for the seized currency and asked if they had any questions about the seizures or would like to provide any more information. They both declined, and the officers ended the encounter.

20. As Yarbrough and Sparks were walking away, Sparks asked if they were going to be watched when they returned to Columbus; however, she walked away before the officers could respond.

21. Upon returning to the DEA's airport office, TFO D'Orazio requested assistance from the Columbus Regional Airport Authority Police K-9 Officer Jenelle Hartman ("Officer Hartman") and K-9 "Daron" to conduct a narcotic detection K-9 sniff on packages containing the seized currency. The requested narcotic detection K-9 sniff consisted of four separate K-9 sniffs.

a. First, the money seized from Yarbrough was placed in a USPS Priority Mail package and sealed. Officer Hartman placed ten United States Postal Service (“USPS”) Priority Mail packages in a circle in the DEA office. Five of the packages were empty, and five contained shredded, circulated currency. Officer Hartman and K-9 Daron entered the office and conducted a sniff of the ten packages. K-9 Daron did not show a change in behavior to any of the ten packages. Officer Hartman and K-9 Daron then left the area.

b. Second, TFO D’Orazio replaced one of the packages with the package that contained the money from Yarbrough. The location of the money was unknown to Officer Hartman. Officer Hartman with K-9 Daron returned to the room and conducted a sniff of the packages. K-9 Daron showed a positive alert for the odor of narcotics on one of the packages by stopping at the package, squaring off, and then scratching at the top of the package. TFO D’Orazio advised Officer Hartman that it was the package containing the money seized from Yarbrough.

c. Third, the money seized from Sparks was placed in a USPS Priority Mail package and sealed. Officer Hartman re-established the original circle of ten USPS Priority Mail packages. Again, five of the packages were empty, and five contained shredded, circulated currency. Officer Hartman and K-9 Daron entered the office and conducted a sniff of the ten packages. K-9 Daron did not show a change in behavior to any of the ten packages. Officer Hartman and K-9 Daron then left the area.

d. Fourth, TFO D’Orazio replaced one of the packages with the

package that contained the money from Sparks. The location of the money was unknown to Officer Hartman. Officer Hartman with K-9 Daron returned to the room and conducted a sniff of the packages. K-9 Daron showed a positive alert for the odor of narcotics on one of the packages by stopping at the package, squaring off, and then scratching at the top of the package. TFO D'Orazio advised Officer Hartman that it was the package containing the money seized from Sparks.

22. Officers have reviewed information from several sources and learned that on May 5, 2017, a grand jury at the Franklin County, Ohio, Court of Common Pleas, Criminal Case No. 17CR002480, returned an Indictment, charging Yarbrough in Counts One through Five with Trafficking in Cocaine, in Count Six with Possession of Marihuana, and in Count Seven with Having Weapons While Under Disability. On February 28, 2018, Yarbrough entered pleas of guilty to Counts One through Three and Counts Five through Seven of the Indictment. On April 17, 2018, Yarbrough was sentenced to a total of 36 months in prison, which he is currently serving.

23. Upon learning of the case at Franklin County, officers spoke to the Franklin County Sheriff's Office deputies involved in the investigation of Yarbrough and learned the following:

a. Between January 20, 2016, and February 8, 2016, deputies completed four undercover buys of crack-cocaine and/or cocaine from Yarbrough.

b. During a traffic stop of a vehicle driven by Yarbrough on February 8, 2016, deputies recovered approximately 9 grams of a substance containing cocaine and \$705.00 from Yarbrough's person, \$100.00 of which was pre-recorded buy money.

c. On February 8, 2016, deputies executed a state search warrant at Yarbrough's residence located on Omar Drive in Columbus, Ohio. Two firearms

and approximately 444.79 grams of marijuana were located and seized.

d. During the search, deputies interviewed Bianca Yarbrough, who identified herself as Yarbrough's wife. She waived her *Miranda* rights, consented to speak to officers, and advised that since Yarbrough had gotten out of prison in or around 2013, she was not aware of him holding any lawful employment.

24. In July 2007, Yarbrough was convicted in Scioto County for multiple counts of felony possession of drugs and was sentenced to a term of imprisonment.

25. On March 8, 2018, the DEA received a claim from Yarbrough, asserting an interest in the \$7,100.00. In his claim, Yarbrough stated that he was the lawful owner of the seized currency because he earned it working at Glove Carwash & Detail in Columbus, Ohio.

26. In support of his claim, Yarbrough included bank records "for verification" of his lawful possession of the currency. The bank statement is for the period of January 17, 2018, through February 6, 2018. The beginning balance for the account on January 17, just two days after the seizure, was \$0.00. During the statement period, a total of \$3,225.00 was deposited into the account in round dollar amounts, and \$2,537.78 was withdrawn.

27. Yarbrough did not provide proof of employment or salary, and the deposits into the account do not appear to represent a payroll deposit. In addition, there is no indication that the account held sufficient funds to explain the source of the currency in Yarbrough's possession on January 15, 2018.

28. On March 8, 2018, the DEA received a claim from Sparks, asserting an interest in the \$5,020.00. In her claim, Sparks stated that she was the lawful owner of the seized currency because she earned it working at Constant Care Home Health Aide in Columbus, Ohio.

29. In support of her claim, Sparks also included bank records "for verification" of her

lawful possession of the seized currency. The bank statements cover the period of December 20, 2017, through February 20, 2018. The beginning balance for the account on December 20, prior to the seizure, was \$277.86. In total, \$1,900.00 was deposited into the account in round dollar amounts, and \$2,182.38 was withdrawn, leaving a negative balance in the account on February 20 of (\$4.52).

30. Sparks did not include proof of employment or salary, and no deposits into the account appear to represent a payroll deposit. In addition, there is no indication that the account held sufficient money to explain the source of the currency in Sparks's possession on January 15, 2018.

31. Based on the forgoing facts, the United States asserts that the \$7,100.00 in United States currency (Defendant 1) and the \$5,020.00 in United States currency (Defendant 2) represent property furnished or intended to be furnished by any person in exchange for a controlled substance, represent proceeds traceable to such an exchange, or were used or intended to be used to facilitate any violation of 21 U.S.C. § 841 or a conspiracy to commit such offense in violation of 21 U.S.C. § 846. The property, therefore, is subject to forfeiture to the United States under 21 U.S.C. § 881(a)(6).

CLAIM FOR RELIEF

WHEREFORE, the plaintiff respectfully requests that:

(a) pursuant to Rule G(3)(b)(i), Supplemental Rules, the Clerk issue a warrant of arrest *in rem*, directing the United States to arrest and seize the defendants and to retain the same in its custody subject to further order of the Court;

(b) the Court, pursuant to Rule G(4), Supplemental Rules, direct the United States to give notice to all persons and entities having an interest in the defendants to assert, in conformity

with the law, a statement of any interest they may have, including notice by publication on the official government website, www.forfeiture.gov, for 30 consecutive days;

(c) the forfeiture of the defendants to the United States be confirmed, enforced, and ordered by the Court;

(d) the Court thereafter order the United States to dispose of the defendants as provided by law; and

(e) the Court award the United States all other relief to which it is entitled, including the costs of this action.

Respectfully submitted,

BENJAMIN C. GLASSMAN
United States Attorney

s/Deborah D. Grimes
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VERIFICATION

I, Jonathan C. Hanley, hereby verify and declare under the penalty of perjury that I am a Special Agent with the Drug Enforcement Administration, that I have read the foregoing Verified Complaint for Forfeiture *In Rem* and know the contents thereof, and that the matters contained in the complaint are true to my own knowledge, except those matters stated to be alleged on information and belief and as to those matters, I believe them to be true.

The sources of my knowledge and information and the grounds of my belief are the official files and records of the United States, information supplied to me by other law enforcement officers, and my investigation of this case.

I hereby verify and declare under the penalty of perjury that the foregoing is true and correct.

6-6-18
Date


JONATHAN C. HANLEY, Special Agent
Drug Enforcement Administration

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff Franklin
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Deborah D. Grimes, Assistant United States Attorney, 221 E. Fourth
Street, Suite 400, Cincinnati, Ohio 45202

DEFENDANTS

Seven Thousand One Hundred and 00/100 Dollars (\$7,100.00) in
United States Currency, et al.

County of Residence of First Listed Defendant Franklin
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input checked="" type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
 forfeiture pursuant to 21 U.S.C. § 881(a)(6)

Brief description of cause:
 forfeiture

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

6/6/18
 FOR OFFICE USE ONLY

Deborah D. Grimes

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____